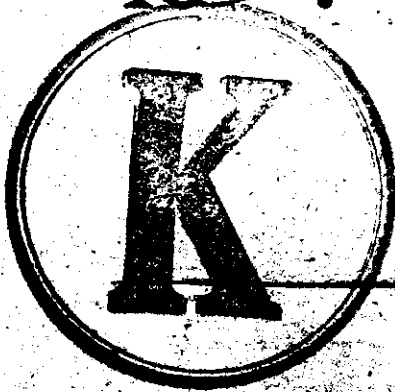


1950.



File No. B. Prev. of
Adulteration
152

Legal Dept.

B

BRANCH

Subject:— L.A. Bill No III of 1950

A Bill to amend the Bombay
Prevention of Adulteration
1925

Bill No LVIII of 1950

P-18
E

File No. B. Prev. of Adulteration/50

820-B

3.

Legal Department.

A revised draft Bill is sent herewith.

2. Keeping in view the penalties provided under the existing provisions of the Act and the penalties provided under analogous Act, the proposed sentences have been revised.

3. The Subject matter of the Bill falls under entries 1, 2 and 18 in List III in the ⁸Seventh Schedule to the Constitution. The Bill does not require any sanction or recommendation. After it is passed, the Bill will have to be reserved for the consideration of the President with reference to article 254(2).

4. The draft amendment of Rule 13A may be sent for scrutiny after the Bill is passed into an Act.

Sd/.....A/9.

Additional Secretary to Government

U.P. to L.S.G. & P.M.D. No. 22649, dated the 4th September 1950.

Submitted for approval & Signature.

It is understood that H.M. Banth will return to Bombay tomorrow. A spare copy of the Bill with the copy of the Act will therefore be sent to his bungalow in Bombay as directed.

81
417

DP.

W.B.

Se.

Immediate.

7

No. 1930.

Legal Department,

Bombay Castle (Bombay No. 1) 14th November 1950.

From,

Sheri J.R. Bhambhani,
Additional Secretary to the Government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Prevention of Adulteration
(Amendment) Bill, 1950.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Prevention of Adulteration (Amendment) Bill, 1950, which was read for the third time and passed at the meetings of the Bombay Legislative Council and the Bombay Legislative Assembly held on the 29th and the 30th October 1950, respectively.

2. The subject-matter of the Bill falls under entries 1, 2 and 18 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Bombay Prevention of Adulteration Act, 1925, which is an existing law relating to entry 18 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

3.....

I also forward herewith six copies of each

	the
1. Bill as introduced in the Bombay Legislative Council with the Statement of Objects and Reasons.	items Nos. 1
2. Bill as read for the third time and passed by the Bombay Legislative Assembly.	and 2
3. Extracts from the proceedings of the Bombay Legislative Council dated the 25th October 1930 and of the Bombay Legislative Assembly dated the 30th October 1930.	and two copies of

items No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

Sd..... 14/11.

Additional Secretary to Government.

Through:

The Secretary to the Government of Bombay
Local and Self Government and Public Health
Department.

DYR.

9/6.

54.

28

11/12.

No. G.S.3511

From

The Secretary to the Governor of Bombay

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay 1.

Government House

Bombay 6, November 21, 1930.

Subject: The Bombay Prevention of
Adulteration (Amendment)
Bill, 1930.

Sir,

With reference to the Bombay Prevention of Adulteration (Amendment) Bill, 1930, which was passed by the Bombay Legislative Council and the Bombay Legislative Assembly on October 25, and October 30, 1930, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Bombay Prevention of Adulteration Act, 1930, which is an existing law relating to entry 18 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 234(2) of the Constitution of India. His Excellency the Governor is accordingly pleased, under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L. J. Madhvala.

Secretary to the Governor of Bombay.

No. G.S.- 3512.
Office of the Secretary to the Governor of Bombay,
Government House, Bombay 6,
November 21, 1930.

P. T. O.

281

12.

Copy forwarded with compliments for information to:-

- (1) The Additional Secretary to Government, Legal Department, with reference to His letter No. 19910, dated November 14, 1950,
- (2) The Secretary to Government, Local Self Government and Public Health Department, with reference to His endorsement No. 2698/31/55-82-D, dated November 17, 1950.

2d/.....

Secretary to the Governor.

DSB.

9/6.

Se.

13.

No. 3247.

From

The Secretary to the Governor of Bombay

To

The Additional Secretary to Government,

Legal Department.

Government House,

Bombay December 23, 1950.

Subject: The Bombay Prevention of Adulteration (Amendment)
Bill, 1950.

Sir,

I In continuation of my letter No. G.S. 3909 dated
December 20, 1950, I am directed to forward herewith the authentic
copy of the Bombay Prevention of Adulteration (Amendment) Bill, 1950,
with the President's assent signified thereon.

Yours faithfully,

Sd/.....

for Secretary to the Governor of Bombay.

DB.

9/6.

Se.

23.

Act.

Publication of the Bombay
Prevention of Adulteration
(Amendment) Act, 1950.

GOVERNMENT OF BOMBAY
Legal Department.
Resolution No. 10278

Bombay Castle, 27th November December 1950.

Letter to the Secretary to the Governor, No. 15920, dated the
14th November 1950.

Letter from the Secretary to the Governor, No. G.S.3909, dated the
20th December 1950.

" With reference to the Correspondence ending with your letter
No. 16297, dated November 21, 1950, I am to say that
intimation has been received from the Government of India,
Ministry of Home Affairs, that the President assented to the
Bombay Prevention of Adulteration (Amendment) Bill, 1950 on
December 16, 1950."

RESOLUTION.:- The law should be published as Bombay Act, No.
LVIII of 1950, in the Bombay Government Gazette dated the 27th December
1950.

2. The Act should be translated into Marathi, Gujarati, &
Kannada and Hindi (in Devnagari script) and the translations should be
published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Local
Self Government and Public Health Department.

By order of the Governor of Bombay.

K.J. Patil,
For Additional Secretary to Government.

To,

Copy to Patil.

DEL.

9/6.

50.



The
Bombay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 10TH OCTOBER 1950.

Separate paging is given to this part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette": The dates of publication to be reported.]

The following Bill is published under the proviso to rule 79 of the Bombay Legislative Council Rules :—

L. C. BILL No. III OF 1950.

A Bill to amend the Bombay Prevention of Adulteration Act, 1925.

WHEREAS it is expedient to amend the Bombay Prevention of Adulteration Act, 1925, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Prevention of Adulteration (Amendment) Short title Act, 1950.

MO-II v—89

Substitution
of new sec-
tion for
section 12
of Bom. V
of 1925.

7. For section 12 of the said Act, the following section shall be substituted, namely :—

Offences to be
cognizable ;
courts
competent to
try offences
under this
Act.

“ 12. (1) Offences under this Act shall be cognizable and non-bailable.

(2) No court inferior to that of the Presidency Magistrate or the Magistrate of the First Class shall try offences under this Act.”

Insertion
of new
section 12A
in Bom. V
of 1925.

8. After section 12 of the said Act, the following section shall be inserted, namely :—

Magistrate's
power to
impose
enhanced
penalties.

“ 12A. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or for any Magistrate of the First Class to pass any sentence authorized by this Act, in excess of his powers under section 32 of the said Code.”

V of
1898.

Substitution
of new
sections 13
and 13A for
section 13 of
Bom. V of
1925.

9. For section 13 of the said Act, the following sections shall be substituted, namely :—

Limitation of
time for
taking cogni-
zance of
offence by
Court.

“ 13. No court shall take cognizance of an offence under this Act after the expiration of thirty days of the grant of the certificate by the public analyst of the result of the analysis.

Court's
orders for
disposal of
stocks of
articles or
food regard-
ing which
offence is
committed or
likely to be
committed.

13A. On the court taking cognizance of an offence under this Act, the Inspector or the officer authorised under sub-section (1) of section 11A shall report to the court any direction issued under sub-section (2) of section 11A. On such report being made, the said stock of articles or food shall be deemed to be the property produced before the court under section 516A of the Code of Criminal Procedure, 1898, and the court shall deal with the said stock in accordance with the provisions of Chapter XLIII of the said Code, so far as they may be applicable.”

V of
1898.

Amendment
of section 17C
of Bom. V of
1925.

10. In section 17C of the said Act, for the words beginning with the words “ be punishable ” and ending with the words “ with both ” the following shall be substituted, namely :—

“ Be punished,—

(a) for a first offence with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees :

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

11. In section 17D of the said Act, in sub-section (2), for the words "one hundred" and "five hundred" the words "five hundred" and "two thousand" shall, respectively, be substituted.

12. In section 17E of the said Act, in sub-section (3), for the words beginning with the words "be punishable" and ending with the words "five hundred" of section 17E of Bom. V of 1925, the following shall be substituted, namely:—

"be punished,—
(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees;
(b) for any subsequent offence, with imprisonment for a term which may extend to two years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees."

13. In section 19 of the said Act, in sub-section (1), after clause (e), the following shall be inserted, namely:—
"(ee) prescribing the form in which a report shall be made under sub-section (1) of section 11A to the officer authorised under the said sub-section (1);"

14. In section 19A of the said Act,—
(1) for the words "be punishable with" the words "on conviction, be punished" shall be substituted;
(2) in clause (a), for the words "one hundred" the words "five hundred" shall be substituted;
(3) in clause (b),—
(a) the word "simple" shall be deleted;
(b) for the words "three months" and "five hundred" the words "six months" and "one thousand" shall, respectively, be substituted.

STATEMENT OF OBJECTS AND REASONS.

The question of amending the Bombay Prevention of Adulteration Act, 1926, with a view to provide stringent punishment against adulteration of food and other offences under the different penal sections of the Act has been engaging the attention of Government for a long time. It has been found that the offences under the Act are on an increase, while the penalties prescribed under the Act for different

Amendment
of section 3
of Bom. V
of 1925.

2. In section 3 of the Bombay Prevention of Adulteration Act, 1925 (hereinafter referred to as the said Act), in the first paragraph, for the words beginning with the words "be punishable" and ending with the words "or with both" the following shall be substituted, namely :—

"on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

Amendment
of section 4
of Bom. V
of 1925.

3. In section 4 of the said Act, in sub-section (1), for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely :—

"on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

Amendment
of section 5
of Bom. V
of 1925.

4. In section 5 of the said Act, for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely :—

"on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to three years and with fine :
 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

5. In section 11 of the said Act, for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely :—
 "on conviction, be punished,—
 (a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees ;
 (b) for a second offence, with imprisonment for a term which may extend to two years and with fine :
 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;
 (c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

namely :—

"11A. (1) The Inspector who has himself or by an agent procured under section 9 or a person who has purchased under section 10 any article or sample to sell, dispose of or remove stock of articles likely to be used in contravention of this Act, (2) If the officer authorised under sub-section (1) has reasonable grounds for believing that the manufacture, sale or use of such article or food is or is likely to be in contravention of the provisions of this Act, the officer may direct that any person from whom the said article or sample of food was procured or purchased and any person acting on his behalf shall not—

(a) until the completion of the investigation by the public analyst of the said article or sample of food, or
 (b) if after the completion of such investigation any prosecution is instituted in respect of the said article or sample for an offence under this Act, until the court taking cognizance of the offence otherwise directs,—
 sell it or otherwise dispose it of or remove the stock of such article or food to any place other than that specified in the direction.

(3) Any person acting in contravention of sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

offences are quite inadequate. It has been the experience that unscrupulous offenders cannot be deterred from following their nefarious activities unless severe penalties are prescribed and inflicted. Persons adulterating articles of food with inferior stuff which is also sometimes inedible are not only selfish and greedy, but are a serious menace to the health of the public and they do not deserve any mercy. The object of the present Bill is, therefore, to enhance adequately the penalties at present prescribed under the penal sections of the Bombay Prevention of Adulteration Act, 1925. The word "simple" is proposed to be omitted from all the penal sections of the Act, so that the trying magistrates can impose simple or rigorous imprisonment as well according to the seriousness of the offence. Penalties to be inflicted for the first offence are proposed to be enhanced, while much higher penalties are proposed to be prescribed for the second and third and subsequent offences. Minimum limits in respect of fines and imprisonment are proposed to be laid down in respect of second and third and subsequent offences, so that the trying magistrates may not let off the culprits with lighter punishment according to their choice. Generally no maximum limits for fines are proposed to be laid down in respect of second and third and subsequent offences except in case of offences of technical nature.

(Signed) M. D. D. GILDER.

Dated the 9th October 1950.

By order of the Governor of Bombay,

J. R. DHURANDHAR,

Additional Secretary to the Government of Bombay,

Legal Department.

Poona, dated the 9th October 1950.

105
197

L. C. BILL No. III OF 1950.

A Bill to amend the Bombay Prevention of Adulteration Act, 1925.

(As read for the third time and passed by the Legislative Council
on the 25th October 1950.)

Bom.
V of
1925

WHEREAS it is expedient to amend the Bombay Prevention of Adulteration Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Prevention of Adulteration (Amendment) Short title, Act, 1950.

Bom.
V of
1925

2. In section 3 of the Bombay Prevention of Adulteration Act, 1925 (herein- Amendment of section 3 of Bom. V of 1925.
after referred to as the said Act), in the first paragraph, for the words beginning with the words "be punishable" and ending with the words "or with both" the following shall be substituted, namely :—

5 "on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

10 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

15 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

3. In section 4 of the said Act, in sub-section (1), for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely :— Amendment of section 4 of Bom. V of 1925.

"on conviction, be punished,—

5 (a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

10 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

15 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

4. In section 5 of the said Act, for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely :— Amendment of section 5 of Bom. V of 1925.

"on conviction, be punished,—

5 (a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

10 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to three years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees.”. 15

Amendment of section 11 of Bom. V of 1925.

5. In section 11 of the said Act, for the words beginning with the words “ be punishable ” and ending with the words “ with both ” the following shall be substituted, namely :—

“ on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees ; 5

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ; 10

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees.”. 15

Insertion of new section 11A in Bom. V of 1925.

6. After section 11 of the said Act, the following section shall be inserted, namely :—

Direction not to sell, dispose of or remove stock of articles likely to be used in contravention of this Act.

“ 11A. (1) The Inspector who has himself or by an agent procured under section 9 or a person who has purchased under section 10 any article or sample of food, for being sent to a public analyst, shall make a report in a prescribed form to an officer specially authorised by a local authority in this behalf. 5

(2) If the officer authorised under sub-section (1) has reasonable grounds for believing that the manufacture, sale or use of such article or food is or is likely to be in contravention of the provisions of this Act, the officer may direct that any person from whom the said article or sample of food was procured or purchased and any person acting on his behalf shall not— 10

(a) until the completion of the investigation by the public analyst of the said article or sample of food, or

(b) if after the completion of such investigation any prosecution is instituted in respect of the said article or sample for an offence under this Act, until the court taking cognizance of the offence otherwise directs,— 15

sell it or otherwise dispose it of or remove the stock of such article or food to any place other than that specified in the direction.

(3) Any person acting in contravention of sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine : 20

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees.”.

tion for
Section 12
of Bom. A
of 1925.

Offences to be
cognizable ;
courts
competent to
try offences
under this

of new
section 12A
in Bom. V
of 1925.

Magistrate
power to
impose
enhanced
penalties.

sections 13
and 13A for
section 13 of
Bom. V of
1925.

Limitation of
time for
taking cogni-
zance of
offence by
Court

Commitment to the community is a key factor in the success of any business. The company is committed to the community and to the environment. The company is committed to the community and to the environment. The company is committed to the community and to the environment.

Amendment
of section 17C
of Bom. V of
1925.

(a) for a first offence with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees ;
(b) for a second offence, with imprisonment for a term which may extend to six months and with fine ;

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees.” 15

Amendment of section 17D of Bom. V of 1925. 11. In section 17D of the said Act, in sub-section (2), for the words “one hundred” and “five hundred” the words “five hundred” and “two thousand” shall, respectively, be substituted. 5

Amendment of section 17E of Bom. V of 1925. 12. In section 17E of the said Act, in sub-section (3), for the words beginning with the words “be punishable” and ending with the words “five hundred rupees” the following shall be substituted, namely :—

“be punished,—

(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees ; 5

(b) for any subsequent offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees.” 10

Amendment of section 19 of Bom. V of 1925. 13. In section 19 of the said Act; in sub-section (I), after clause (e), the following shall be inserted, namely :—

“(ee) prescribing the form in which a report shall be made under sub-section (I) of section 11A to the officer authorised under the said sub-section (I) ; ”. 5

Amendment of section 19A of Bom. V of 1925. 14. In section 19A of the said Act,—

(1) for the words “be punishable with” the words “on conviction, be punished” shall be substituted ;

(2) in clause (a), for the words “one hundred” the words “five hundred” shall be substituted ; 5

(3) in clause (b),—

(a) the word “simple” shall be deleted ;

(b) for the words “three months” and “five hundred” the words “six months” and “one thousand” shall, respectively, be substituted.

139
201

STATEMENT OF OBJECTS AND REASONS.

The question of amending the Bombay Prevention of Adulteration Act, 1925, with a view to provide stringent punishment against adulteration of food and other offences under the different penal sections of the Act has been engaging the attention of Government for a long time. It has been found that the offences under the Act are on an increase, while the penalties prescribed under the Act for different offences are quite inadequate. It has been the experience that unscrupulous offenders cannot be deterred from following their nefarious activities unless severe penalties are prescribed and inflicted. Persons adulterating articles of food with inferior stuff which is also sometimes inedible are not only selfish and greedy, but are a serious menace to the health of the public and they do not deserve any mercy. The object of the present Bill is, therefore, to enhance adequately the penalties at present prescribed under the penal sections of the Bombay Prevention of Adulteration Act, 1925. The word "simple" is proposed to be omitted from all the penal sections of the Act, so that the trying magistrates can impose simple or rigorous imprisonment as well according to the seriousness of the offence. Penalties to be inflicted for the first offence are proposed to be enhanced, while much higher penalties are proposed to be prescribed for the second and third and subsequent offences. Minimum limits in respect of fines and imprisonment are proposed to be laid down in respect of second and third and subsequent offences, so that the trying magistrates may not let off the culprits with lighter punishment according to their choice. Generally no maximum limits for fines are proposed to be laid down in respect of second and third and subsequent offences except in case of offences of technical nature.

M. D. D. GILDER.

Dated the 9th October 1950

Government of Bombay

LEGAL DEPARTMENT

L. C. BILL No. III OF 1950.

**(As read for the third time and passed by the
Legislative Council on the 25th October 1950.)**

**A Bill to amend the Bombay Prevention of
Adulteration Act, 1925.**

[Dr. M. D. D. GILDER, M.L.A.]



The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 27TH DECEMBER 1950.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated
and Regulations made by the Governor.

CONTENTS.

	Pages
BOMBAY ACT No. LVIII OF 1950—An Act to amend the Bombay Prevention of Adulteration Act, 1925	576-580

The following Act of the Bombay Legislature having been assented to by the President on the 18th December 1950 is hereby published for general information.

J. R. DHURANDHAR,

Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. LVIII OF 1950.

*First published, after having received the assent of the President, in the
"Bombay Government Gazette" on the 27th December 1950.*

An Act to amend the Bombay Prevention of Adulteration Act, 1925.

Bom.
V of
1925.

WHEREAS it is expedient to amend the Bombay Prevention of Adulteration Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Prevention of Adulteration (Amendment) Act, 1950. Short title.

2. In section 3 of the Bombay Prevention of Adulteration Act, 1925 (hereinafter referred to as the said Act), in the first paragraph, for the words beginning with the words "be punishable" and ending with the words "or with both" the following shall be substituted, namely:— Amendment to section 3 of Bom. V of 1925.

"on conviction, be punished,—"

(a) for a first offence, with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

Amendment
of section 4
of Bom. V
of 1925.

3. In section 4 of the said Act, in sub-section (I), for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely :—

"on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

Amendment
of section 5
of Bom. V
of 1925.

4. In section 5 of the said Act, for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely :—

"on conviction, be punished,—

(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees ;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to three years and with fine ;
 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

5. In section 11 of the said Act, for the words beginning with the words "be punishable" and ending with the words "with both" the following shall be substituted, namely:—
 "on conviction, be punished,—
 (a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees ;
 (b) for a second offence, with imprisonment for a term which may extend to two years and with fine ;
 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees ;
 (c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine ;
 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

6. After section 11 of the said Act, the following section shall be inserted, namely:—

"11A. (1) The Inspector who has himself or by an agent procured under section 9 or a person who has purchased under section 10 any article or sample of food, for being sent to a public analyst, shall make a report in a prescribed form to an officer specially authorised by a local authority in this behalf.
 (2) If the officer authorised under sub-section (1) has reasonable grounds for believing that the manufacture, sale or use of such article or food is or is likely to be in contravention of the provisions of this Act, the officer may direct that any person from whom the said article or sample of food was procured or purchased and any person acting on his behalf shall not—
 (a) until the completion of the investigation by the public analyst of the said article or sample of food, or
 (b) if after the completion of such investigation any prosecution is instituted in respect of the said article or sample for an offence under this Act, until the court taking cognizance of the offence otherwise directs,—
 sell it or otherwise dispose it of or remove the stock of such article or food to any place other than that specified in the direction.
 (3) Any person acting in contravention of sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine ;
 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

Substitution
of new sec-
tion for
section 12
of Bom. V
of 1925.

7. For section 12 of the said Act, the following section shall be substituted, namely:—

Offences to be
cognizable;
courts
competent to
try offences
under this
Act

“12. (1) Offences under this Act shall be cognizable and non-bailable.
(2) No court inferior to that of the Presidency Magistrate or the Magistrate of the First Class shall try offences under this Act.”

Insertion
of new
section 12A
in Bom. V
of 1925.

8. After section 12 of the said Act, the following section shall be inserted, namely:—

Magistrate's
power to
impose
enhanced
penalties.

“12A. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or for any Magistrate of the First Class to pass any sentence authorized by this Act, in excess of his powers under section 32 of the said Code.”

V of
1898.

Substitution
of new
sections 13
and 13A for
section 13 of
Bom. V of
1925.

9. For section 13 of the said Act, the following sections shall be substituted, namely:—

Limitation of
time for
taking cogni-
zance of
offence by
Court.

“13. No court shall take cognizance of an offence under this Act after the expiration of thirty days of the grant of the certificate by the public analyst of the result of the analysis.

Court's
orders for
disposal of
stocks of
articles or
food regard-
ing which
offence is
committed or
likely to be
committed.

13A. On the court taking cognizance of an offence under this Act, the Inspector or the officer authorised under sub-section (1) of section 11A shall report to the court any direction issued under sub-section (2) of section 11A. On such report being made, the said stock of articles or food shall be deemed to be the property produced before the court under section 516A of the Code of Criminal Procedure, 1898, and the court shall deal with the said stock in accordance with the provisions of Chapter XLIII of the said Code, so far as they may be applicable.”

V of
1898.

Amendment
of section 17C
of Bom. V of
1925.

10. In section 17C of the said Act, for the words beginning with the words “be punishable,” and ending with the words “with both” the following shall be substituted, namely:—

“be punished.—

(a) for a first offence with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees;

(b) for a second offence, with imprisonment for a term which may extend to two years and with fine;

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine;

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees."

11. In section 47D of the said Act, in sub-section (2), for the words "one hundred" and "five hundred" the words "five hundred" and "two thousand" of section 17D of Bom. Amendment V of 1925.

12. In section 17E of the said Act, in sub-section (3), for the words beginning with the words "be punishable" and ending with the words "five hundred" of section 17E of Bom. Amendment V of 1925.

"be punished,—
(a) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees;
(b) for any subsequent offence, with imprisonment for a term which may extend to two years and with fine;

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees."

13. In section 19 of the said Act, in sub-section (1), after clause (e), the following shall be inserted, namely:—
"(ee) prescribing the form in which a report shall be made under sub-section (1) of section 11A to the officer authorised under the said sub-section (1);"

14. In section 19A of the said Act,—
(1) for the words "be punishable with" the words "on conviction, be punished" shall be substituted;
(2) in clause (a), for the words "one hundred" the words "five hundred" shall be substituted;
(3) in clause (b),—

(a) the word "simple" shall be deleted;
(b) for the words "three months" and "five hundred" the words "six months" and "one thousand" shall, respectively, be substituted.

155
247